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GAIL I. BADER

April 15, 2022

By ECF

Honorable Cathy Seibel
United States Courthouse
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

Plaintiff's counsel may amend the 406(b) motion within 21 days of receiving a decision from the agency as to fees under 406(a). The pre-motion conference requirement is waived. For administrative reasons only, I will deny the filed motion (ECF No. 24) without prejudice to renewal, but it will be deemed filed and pending as of today. Once counsel has a decision from the agency, counsel can file amended motion papers if there are withheld fees remaining. And if there are not, nothing further needs to be done.

**RE: Rivera v. Kijakazi
20-cv-7215 (CS) (JCM)**

SO ORDERED.


CATHY SEIBEL, U.S.D.J.

4/15/22

Dear Judge Seibel:

Our office represents the Plaintiff in this matter. At this time, we are moving for an award of attorney's fees under 42 U.S.C. § 406(b). We write to explain that we have not requested a pre-motion conference because of the strict 14-day deadline for these motions. *See Sinkler v. Berryhill*, 932 F.3d 83, 89 (2d Cir. 2019). We believe that we could be prejudiced from receiving our fee award if we do not meet this motion deadline.

We also note that the Second Circuit has specifically commented that the Court may extend the filing deadline. *See Sinkler v. Berryhill*, 932 F.3d 83, 89 (2d Cir. 2019) ("[D]istrict courts are empowered to enlarge that filing period where circumstances warrant."). The circumstances in this case are that the 406(a) fee award may not leave any withheld fees remaining for any 406(b) award. Accordingly, we respectfully request that the Court extend our time to re-file, amend, or request a pre-motion conference for the 406(b) motion to a later date.

Thank you for your consideration of this request.

Respectfully submitted,

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